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Human rights situation in Palestine and other occupied Arab territories

Human rights situation in the Occupied Palestinian Territory, including East Jerusalem*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 31/34 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It focuses on the recurrence and persistence of human rights violations and the underlying policies leading to such patterns.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. The present report is submitted pursuant to resolution 31/34 of the Human Rights Council, in which the Council requested the Secretary-General to report on the implementation of that resolution, with a particular focus on the recurrence and persistence of human rights violations in the Occupied Palestinian Territory and the underlying policies leading to such patterns, including those involving forcible displacement. It covers the period from 1 November 2015 to 31 October 2016. Fifty years after the start of the occupation, the patterns and persistence of human rights violations in the Occupied Palestinian Territory can be seen clearly. The present report provides a non-exhaustive overview of the most pressing human rights violations in the Occupied Palestinian Territory, highlighting the connection with the Israeli occupation. The recommendations encourage all duty bearers to comply with their obligations under international law.

2. Recent reports of the Secretary-General and the United Nations High Commissioner for Human Rights provide a more in-depth analysis of the human rights situation in the Occupied Palestinian Territory.[1]

II. Legal background

3. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory, namely Gaza and the West Bank, including East Jerusalem.

4. Israel is a party to most of the core international human rights treaties[2] and ratified the four Geneva Conventions.[3] On 1 April 2014, the State of Palestine acceded to the same core human rights treaties as Israel, as well as to the four Geneva Conventions, their Additional Protocols and the Convention respecting the Laws and Customs of War on Land.[4]

A. International human rights law

5. As a party to most of the core international human rights conventions, the State of Palestine is responsible for implementing its human rights obligations within its jurisdiction. The authorities in Gaza also bear human rights obligations, given their exercise of government-like functions and territorial control.[5]

6. The human rights obligations of Israel within the Occupied Palestinian Territory stem from the jurisdiction and effective control exercised by Israel as the occupying power.

7. The scope of application of international human rights law does not only depend on a State's territorial limits, but also on the exercise of its jurisdiction or effective control, even outside of the State's sovereign territory.[6] Israel has rejected the applicability of its human rights obligations outside its national territory.[7] However, the applicability of its human rights obligations in the Occupied Palestinian Territory (i.e. the West Bank,

[1] See, e.g., A/71/364, A/71/355, A/HRC/34/36 and A/HRC/34/39.

[2] Israel has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights , the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

[3] Israel is not a party to the Convention respecting the Laws and Customs of War on Land nor to the 1977 Protocols Additional to the Geneva Conventions.

[4] See A/HRC/12/37, para. 7, and A/HRC/8/17, para. 8.

[5] See A/HRC/8/17, para. 9.

[6] See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 134, para. 109.

[7] See, e.g., E/C.12/1/Add.27, para. 8. See also *Legal Consequences of the Construction of a Wall*, para. 112.

including East Jerusalem, and the Gaza Strip) has been continuously asserted in the relevant resolutions of the General Assembly,[8] in reports of the Secretary-General[9] and the United Nations High Commissioner for Human Rights[10] and by various human rights treaty bodies.[11]

8. As the International Court of Justice stated in 2004 that, because Israel exercises territorial jurisdiction over the Occupied Palestinian Territory as the occupying power, it is bound by human rights obligations in respect of the local population.[12] The International Court of Justice also observed that the obligations of Israel under the International Covenant on Economic, Social and Cultural Rights included "an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities".[13] The accession of the State of Palestine to human rights treaties does not affect the obligations of Israel under human rights law within the Occupied Palestinian Territory.[14]

9. The applicability of human rights law in a situation of armed conflict or occupation concurrently with international humanitarian law has been widely affirmed. The International Court of Justice first addressed that issue in 1996 and then reiterated the concurrent application of international humanitarian law and human rights law in its advisory opinion on the wall, including in respect of the Occupied Palestinian Territory.[15] A situation of armed conflict or occupation does not release a State from its human rights obligations.[16]

B. International humanitarian law

10. The Occupied Palestinian Territory is a territory under belligerent occupation to which international humanitarian law applies. Israel is bound by the obligations of an occupying power set out in the Convention respecting the Laws and Customs of War on Land, the Fourth Geneva Convention and customary international law,[17] as confirmed by numerous international entities.[18] International humanitarian law applies to the entirety of the Occupied Palestinian Territory, in other words to Gaza and the West Bank, including East Jerusalem. East Jerusalem remains an integral part of the West Bank and the Security Council has repeatedly affirmed the continued application of the Fourth Geneva Convention to East Jerusalem.[19]

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[8] See, e.g., General Assembly resolution 71/98.

[9] See A/69/348, para. 5, and A/HRC/28/44, para. 6.

[10] See, e.g., A/HRC/8/17, para. 7, and A/HRC/12/37, paras. 5-6.

[11] See Human Rights Committee general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights, para. 10. See also E/C.12/1/Add.90, para. 31, CCPR/C/ISR/CO/4, para. 5, CRC/C/ISR/CO/2-4, para. 3, CAT/C/ISR/CO/4, para. 11, and CERD/C/ISR/CO/14-16, para. 10.

[12] See *Legal Consequences of the Construction of a Wall*, paras. 110-113.

[13] Ibid., para. 112.

[14] See A/HRC/28/44, para. 6.

[15] See *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 226, para. 25, and *Legal Consequences of the Construction of a Wall*, para. 106.

[16] See A/HRC/12/37, para. 6.

[17] Although Israel is not a party to the Convention respecting the Laws and Customs of War on Land, the rules contained therein are applicable as they are considered customary law. While Israel has disputed the de jure application of the law of occupation based on an interpretation of article 2 common to the Geneva Conventions (an interpretation that has been rejected by various international entities), it has nevertheless been applying selected provisions of the Fourth Geneva Convention.

[18] See *Legal Consequences of the Construction of a Wall*, para. 101. See also Security Council resolutions 1860 (2009) and 2334 (2016), among others; General Assembly resolutions 62/181 and 63/98, among others; Human Rights Council resolution 10/18, among others; reports of the Secretary-General A/HRC/12/37, para. 9, and A/HRC/8/17, para. 5, among others; and the declaration of 17 December 2014 adopted by the Conference of High Contracting Parties to the Fourth Geneva Convention.

[19] See Security Council resolutions 478 (1980) and 476 (1980) and General Assembly resolutions 70/88 and 71/96.

11. Further norms of international humanitarian law, particularly those relating to the conduct of hostilities, must be respected by all parties to a conflict, including Palestinian armed groups.[20] In particular, all parties to a conflict have to respect the principles of distinction, proportionality and precaution.[21]

12. States parties to the Geneva Conventions have the duty not only to respect the Conventions but also to ensure respect for them.[22] The obligation to ensure respect implies an obligation to take measures to prompt States that have violated the Conventions to act in compliance with international humanitarian law.[23] It is on this obligation that the Security Council, the General Assembly and the majority of States parties to the Geneva Conventions have relied when calling upon third States to react to international humanitarian law violations by Israel.[24]

III. Recurrent violations of international law in the Occupied Palestinian Territory

13. The Palestinian population of the Occupied Palestinian Territory is specifically protected by international humanitarian law.[25] As the occupying power, Israel has the duty to protect the population of the Occupied Palestinian Territory and to uphold public order and safety.[26] That obligation is commonly understood as including an obligation to ensure the welfare and well-being of the local population.[27] Israel bears the obligation to meet the needs of the protected population[28] and to allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need.[29] It is also under an obligation to treat the protected population humanely, without any discrimination.[30] In all circumstances, it is obliged to respect the fundamental rights of protected persons, that is their right to physical, moral and intellectual integrity.[31] The obligation of Israel, as an occupying power, to protect the Palestinian population is in line with its obligation to respect, protect and fulfil the human rights of the Palestinian population without discrimination.

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[20] Article 3 common to the Geneva Conventions.

[21] International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law (Volume I: Rules)* (Cambridge University Press, 2005), rules 1-3.

[22] Article 1 common to the Geneva Conventions.

[23] See ICRC commentary to article 1 common to the Geneva Conventions, 2016, para. 154 (https://ihl-databases.icrc.org/ihl/full/GCI-commentaryArt1); the declaration of 5 December 2001 of the Conference of High Contracting Parties to the Fourth Geneva Convention, para. 4; *Legal Consequences of the Construction of a Wall*, paras. 158-159; and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986*, p. 14, para. 220.

[24] See, e.g., Security Council resolutions 2334 (2016) and 465 (1980); General Assembly resolution 70/89, paras. 9-10; and the declaration of 17 December 2014 of the Conference of High Contracting Parties to the Fourth Geneva Convention, para. 4.

[25] Fourth Geneva Convention, art. 4.

[26] Convention respecting the Laws and Customs of War on Land, arts. 43 and 46.

[27] David Kretzmer, "The law of belligerent occupation in the Supreme Court of Israel", *International Review of the Red Cross*, vol. 94, No. 885 (Spring 2012), pp. 216-217.

[28] Fourth Geneva Convention, art. 55 (1) regarding food and medical supplies; see also art. 56 regarding the duty to ensure and maintain medical services and art. 50 regarding the duty to facilitate the proper working of education institutions.

[29] Fourth Geneva Convention, art. 59, and ICRC, *Customary International Humanitarian Law*, rule 55. As consent of the occupying power remains necessary, it cannot be withheld on grounds other than those set out in article 59 of the Fourth Geneva Convention.

[30] Fourth Geneva Convention, art. 27.

[31] Ibid., and ICRC 1958 commentary to article 27 of the Fourth Geneva Convention, p. 201.

A. Violations of the obligations of the occupying power

14. In the Occupied Palestinian Territory, Israel disregards the law of occupation and its obligations as an occupying power. The law of occupation is guided by the principle that the *status quo ante* has to be preserved as far as possible within the occupied territory.[32]

15. A central violation of the law of occupation in the present context is the construction and expansion of Israeli settlements in the West Bank. The continued expansion of settlements not only undermines the possibility of a two-State solution, but is also at the core of many human rights violations in the West Bank.[33]

1. Settlement expansion in the West Bank

16. Since the early years of the occupation, Israel has pursued a policy of establishing illegal settlements in the Occupied Palestinian Territory.[34] With a current total settler population of at least 590,000 in the West Bank (around 386,000 in some 130 settlements in Area C and 208,000 in East Jerusalem), the population of settlements has more than doubled since the beginning of the Oslo process in 1993.[35] In addition, approximately 100 illegal outposts have been built without the formal approval of the Government of Israel in Area C and efforts under way in Israel to legalize some of them.[36]

17. Besides allocating land for the purposes of constructing settlement housing and infrastructure, Israel supports the maintenance and development of settlements through the delivery of public services and the encouragement of economic activities, including agriculture and industry. Population growth in Israeli settlements is stimulated by housing, education and tax benefits. Similar incentives are provided for settlement industries.[37] The development of archaeological sites, national parks and other tourist sites aimed at attracting Israelis further contributes to settlement growth and Israeli control of land in the West Bank, including East Jerusalem.[38]

18. Moreover, Israel supports outposts considered illegal under its domestic law and other unauthorized constructions through the provision of funds, infrastructure and security.[39] Settlement expansion is also compounded by the failure of Israel to maintain public order and ensure accountability for harassment and violence perpetrated by Israeli settlers.

19. Settlements amount to the transfer of a State's population to the territory it occupies, which is prohibited by international humanitarian law.[40] Any act that would facilitate population transfer is also prohibited under international humanitarian law.[41] Such transfer stands in violation of the Fourth Geneva Convention and is recognized as a war crime that may lead to individual criminal responsibility.[42] The illegality of settlements under international law has been confirmed by various international bodies, including the International Court of Justice, the Security Council, the General Assembly and the Human Rights Council.[43]

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[32] ICRC, "Contemporary challenges to IHL — Occupation: Overview", June 2012.
[33] See A/HRC/34/39 and A/71/355, para. 34.
[34] See S/13450 and Corr.1 and 2.
[35] Report of the Middle East Quartet of July 2016, p. 4. Available from www.un.org/News/dh/infocus/middle_east/Report-of-the-Middle-East-Quartet.pdf.
[36] Ibid., p. 5. See also A/HRC/34/39, para. 33, and A/71/355, paras. 10-14.
[37] See A/68/513, para. 24, A/71/355, para. 4, and A/HRC/22/63, paras. 19, 22 and 97.
[38] See A/69/348, paras. 33-35, A/70/351, paras. 33-36, and A/71/355, para. 4.
[39] See A/68/513, paras. 15-16, and Talya Sason, "Summary of the opinion concerning unauthorized outposts" (10 March 2005).
[40] Fourth Geneva Convention, art. 49 (6).
[41] ICRC, 1958 commentary to article 49 (6) of the Fourth Geneva Convention, p. 283.
[42] Fourth Geneva Convention, art. 147, and Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).
[43] See *Legal Consequences of the Construction of a Wall*, para. 120; Security Council resolutions 2334 (2016) and 465 (1980); General Assembly resolution 70/89 and Human Rights Council resolution

20. In addition, settlements and related activities have repercussions on human rights. The ongoing expansion of settlements severely impedes the exercise by the Palestinian people of their right to self-determination and seriously deprives them of natural resources.[44]

2. Unlawful seizure and destruction of property

21. As set out in the Fourth Geneva Convention, the occupying power must administer public property according to the rules of usufruct. The occupying power can thus use and enjoy public property as long as doing so does not alter its character.[45] Private property must be respected and cannot be confiscated;[46] the destruction of property by the occupying power is expressly prohibited by international humanitarian law.[47] The seizure of property, as well as the demolition of Palestinian houses, infrastructure and orchards, in order to establish, develop and maintain settlements and provide access to the latter, are flagrant violations of the rules of usufruct.

22. Exceptions to the rules are only permitted if those rules specifically provide for them. In the absence of active hostilities in the West Bank, any exception to the rule prohibiting the alteration or destruction of private and public property appears difficult to invoke. [48]

3. Demolitions and forcible transfer of Palestinians in the West Bank

23. International humanitarian law not only prohibits the transfer of the population of the occupying State into the occupied territory, but also individual or mass forcible transfer or deportation of the population of an occupied territory regardless of the motive.[49] Such transfer amounts to a grave breach of the Geneva Conventions and is also considered a war crime.[50]

24. Over the years, the Secretary-General has reported on cases where the forcible transfer of Palestinians may have taken place within the West Bank and on the situation of individuals and communities at risk of forcible transfer, primarily Bedouins and other herder communities within Area C of the West Bank. Cases of forcible transfer are generally documented after the demolition of homes and infrastructure that leads to forced evictions,[51] in violation of international humanitarian law and international human rights law.[52]

25. Having destroyed or seized 986 structures between 1 January and 31 October 2016 (more than twice for the number compared with the same period in 2015), in 2016 the Israeli authorities demolished more Palestinian-owned structures in the West Bank, including East Jerusalem, than in any year since 2009, when the United Nations began to monitor the issue systematically. The majority of demolitions affected vulnerable Palestinian Bedouin and herding communities. Overall, 1,596 Palestinians were displaced in 2016, including 759 children, and 6,398 others were affected, including 2,007 children, by the demolition of residential and livelihood-related structures. According to the Office for the Coordination of Humanitarian Affairs of the Secretariat, official data released by the

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31/36, and earlier resolutions; and the declaration of 17 December 2014 of the Conference of High Contracting Parties to the Fourth Geneva Convention, para. 8.

[44] See *Legal Consequences of the Construction of a Wall*, para. 122; General Assembly resolution 71/247; and A/HRC/22/63, para. 38.

[45] Convention respecting the Laws and Customs of War on Land, art. 55, Fourth Geneva Convention, art. 53, and ICRC, *Customary International Humanitarian Law*, rule 51.

[46] Convention respecting the Laws and Customs of War on Land, arts. 46 and 56, Fourth Geneva Convention, art. 53, and ICRC, *Customary International Humanitarian Law*, rule 51.

[47] Fourth Geneva Convention, art. 53, and ICRC, *Customary International Humanitarian Law*, rule 51.

[48] ICRC, 1958 commentary to article 53 of the Fourth Geneva Convention, p. 302.

[49] See the Fourth Geneva Convention, art. 49 (2), for exceptions.

[50] Fourth Geneva Convention, art. 147, and Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).

[51] See, e.g., A/HRC/25/40, paras. 18-21, A/69/347, para. 26, and A/67/372, paras. 36-37.

[52] Fourth Geneva Convention, art. 53; International Covenant on Economic, Social and Cultural Rights, art. 11; and International Covenant on Civil and Political Rights, art. 17.

Israeli authorities indicates that over 11,000 demolition orders in Area C were outstanding as of 2014, concerning an estimated 17,000 Palestinian-owned structures.[53]

26. Most structures have been demolished because of the absence of building permits issued by the Israeli authorities, which are almost impossible for Palestinians to obtain. In previous reports, it has been noted that the Israeli zoning and planning policy in the West Bank, which regulates the construction of housing and structures in Area C, is restrictive, discriminatory and incompatible with requirements under international law.[54] Provided that international humanitarian law is otherwise respected,[55] territorial planning has to be undertaken to enhance the life of the protected population, which is not the case in the present situation. The implementation of the zoning and planning regime cannot be invoked by Israel to justify any violation of international law.

27. The destruction of donor-funded humanitarian assistance to vulnerable communities spiked in 2016, when 292 donor-funded structures were demolished or seized by the Israeli authorities in Area C — a rate over 165 per cent higher than in 2015. Affected relief items included shelters and tents, water cisterns, animal barracks and other basic structures needed for survival and to gain a livelihood. Such actions are irreconcilable with the occupying power's obligations to allow and facilitate humanitarian access for civilians in need.[56]

28. Forcible transfer does not necessarily require the use of physical force by the authorities but may be triggered by specific circumstances that leave individuals or communities with no choice but to leave. The existence of such circumstances constitutes what is known as a coercive environment.[57] Any transfer that occurs without the genuine and fully informed consent of those affected is considered forcible. However, genuine consent to a transfer cannot be presumed in an environment marked by the use or threat of physical force, coercion, fear of violence or duress.[58]

29. Palestinians have been forced to move owing to the existence of a coercive environment within Area C of the West Bank[59] and the area of the city of Hebron under Israeli control (H2).[60] Coercive factors such as home seizures and demolitions leading to forced evictions, movement and access restrictions, instances of excessive use of force by Israeli security forces and settler violence have also been reported in East Jerusalem.[61] Forcible transfers have also been documented following the revocation of residency permits in East Jerusalem,[62] as well as the transfer of Palestinian detainees to Israeli prisons.[63] Human rights violations, for example of the rights to freedom of movement, privacy and

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[53] Office for the Coordination of Humanitarian Affairs, official data on demolition orders in Area C. Available from http://data.ochaopt.org/demolitions.aspx.

[54] See A/HRC/31/43, para. 45, referring to A/HRC/25/38, paras. 11-20; see also A/68/513, paras. 30-34. The implementation of the Israeli planning and zoning regime is problematic with regard to the prohibition of discrimination enshrined in human rights law and the right to adequate housing (International Covenant on Economic, Social and Cultural Rights, art. 11), including the prohibition on forced evictions and on unlawful or arbitrary interference with privacy, family and home (Committee on Economic, Social and Cultural Rights general comment No. 7 (1997) on forced evictions, para. 3).

[55] In particular, the Israeli planning and zoning regime may violate the obligation of the occupying power under international humanitarian law to ensure public order and safety while respecting the laws in force in the occupied territory (Convention respecting the Laws and Customs of War on Land, art. 43).

[56] Fourth Geneva Convention, art. 59; see also ICRC, *Customary International Humanitarian Law*, rule 55.

[57] See A/HRC/34/39, paras. 40-57.

[58] See A/67/372, para. 37, and A/HRC/24/30, para. 29.

[59] See A/HRC/31/43, para. 46, A/69/348, para. 16, and A/67/372, para. 37.

[60] See A/71/355, paras. 25-64.

[61] See A/70/351, paras. 25-51, and A/HRC/16/71, paras. 20-22.

[62] See A/67/372, para. 39, and A/HRC/16/71, paras. 23-24.

[63] Fourth Geneva Convention, art. 78. The transfer of prisoners into the territory of the occupying power is forbidden by article 76.

family life,[64] as well of a range of economic, social, and cultural rights,[65] may also be violated within the context of forcible transfers.

4. Collective punishment

30. In June 2007, following the takeover of Gaza by Hamas, and in the context of continued attacks emanating from Gaza against Israeli civilian targets, Israel significantly tightened restrictions on movement by land to and from the Gaza Strip, adding to the prohibition of any access by air or sea since 1967. Despite a gradual easing of some restrictions since 2010, Israel continues to maintain a tight closure policy,[66] leaving 1.9 million Palestinians locked in Gaza, largely unable to access the West Bank, including East Jerusalem, and the outside world. The impact of that blockade is exacerbated by the almost continuous closure by Egypt of the Rafah passenger crossing (despite some loosening of restrictions over the past year) and by the increasing refusal by Jordan to grant passage to Palestinians from Gaza through the Allenby crossing.[67]

31. The closures imposed on Gaza are contrary to international law and may amount to collective punishment, as it penalizes the entire population without regard to individual responsibility.[68] It has a serious impact on the right to freedom of movement and on economic, social and cultural rights.

32. Following an attack against Israelis, the Israeli authorities frequently employ measures that may amount to collective punishment that affect the members of the family or the community of the attackers or alleged attackers.[69] The use of such measures has increased during the past three years in a context of heightened violence. Among the measures used are the following: punitive demolitions, the cancellation of travel and work permits and other administrative actions, the withholding of bodies and the closure of Palestinian towns and villages.[70]

33. Collective punishment is expressly prohibited by international humanitarian law.[71] That prohibition does not apply only to criminal sanctions but also to harassment of any sort, including administrative measures, carried out by the police or the military.[72] Several human rights are negatively affected by such practices, including the right to a fair trial and other due process guarantees, including the principle of individual responsibility and the presumption of innocence.[73]

5. Settler harassment and violence, and impunity

34. Settler harassment and violence against Palestinians, and the failure of Israel to ensure that perpetrators are held accountable, has been an ongoing issue in the Occupied Palestinian Territory.[74] Such instances include verbal harassment, physical attacks causing

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[64] International Covenant on Civil and Political Rights, arts. 12 and 17.

[65] See A/HRC/16/71, para. 24.

[66] The term "blockade" is used here to describe the imposition by Israel of prolonged closures and economic and movement restrictions in the Gaza Strip (see A/71/364, para. 5, A/HRC/24/30, paras. 21-23, A/69/347, paras. 30-34, and General Assembly resolution 69/93).

[67] See A/71/364, para. 28.

[68] See A/HRC/31/40, para. 36, and A/HRC/24/30, para. 22, with references.

[69] A/HRC/34/36 and A/HRC/31/40.

[70] See A/71/364, paras. 25-26, A/HRC/34/36, paras. 31-33, and A/HRC/31/40, paras. 29-33. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20082&LangID=E.

[71] Convention respecting the Laws and Customs of War on Land, art. 50, and Fourth Geneva Convention, art. 33.

[72] ICRC, *Customary International Humanitarian Law*, commentary to rule 103.

[73] International Covenant on Civil and Political Rights, arts. 11-12, 14 and 17. See also the Fourth Geneva Convention, arts. 71-73.

[74] E.g., A/71/355 and A/HRC/31/42, among numerous previous reports. See also Talya Sason, "Summary of the opinion concerning unauthorized outposts".

casualties and damage to or destruction of Palestinian property, with Palestinian-owned trees (mainly olive trees) being specifically targeted.[75]

35. The phenomenon has been directly linked to the continued existence and expansion of illegal settlements throughout the West Bank. Documented cases of settler attacks, trespassing and forceful takeover of land suggest that violence is often carried out as part of an effort by settlers to push Palestinian farmers off their land.[76]

36. As the occupying power, Israel is obliged to uphold public order and safety within the Occupied Palestinian Territory and to protect its inhabitants, notably from all acts of violence, threats and insults.[77] Harassment and violence by settlers impedes the enjoyment of numerous human rights by the affected Palestinian population, including the right to life and physical integrity, the right to privacy, family and home and the right to an adequate standard of living.[78]

37. Under its duty to respect, protect and fulfil the human rights of all individuals within its jurisdiction, without any discrimination, Israel has the obligation to exercise due diligence to prevent, investigate, prosecute, punish and remedy any harm sustained by Palestinians, whether it is caused by officials or private persons.[79]

38. Moreover, Israel should do its utmost to ensure prompt and effective investigations into alleged violations and to prosecute suspected perpetrators.[80] However, it is very rare that police complaints filed by Palestinians in the West Bank lead to an investigation, let alone an indictment.[81] The Israeli authorities have recently made efforts to address the issue of settler violence, including through intensified law enforcement activity and the increased presence of elements of the Israel Defense Forces.[82] These measures have been linked to a steady decline in recorded incidents of settler violence over the past three years. That trend nevertheless is in contrast with the exceptional violence of some of the attacks committed in 2015.[83]

6. Application of Israeli law in the West Bank

39. In the West Bank, Israeli domestic law is applied extraterritorially to Israeli settlers, while Palestinians are subject to Israeli military law in addition to the Palestinian legal system. The resulting differentiation is particularly problematic as regards criminal matters.[84] While Israeli settlers are tried under Israeli penal law in civilian courts in Israel, Palestinians are prosecuted under Israeli military law for security offences and other crimes as defined by military orders. It is notable that Israeli domestic law provides more procedural guarantees to suspects and defendants than Israeli military law does for the same offence.[85]

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[75] Office for the Coordination of Humanitarian Affairs, "Israeli settler violence in the West Bank", November 2011.

[76] See A/69/348, para. 39. See also Yesh Din, *The Road to Dispossession: a Case Study -- the Outpost of Adei Ad* (February 2013), and Kerem Navot, *Israeli Settler Agriculture as a Means of Land Takeover in the West Bank*, (August 2013).

[77] Fourth Geneva Convention, art. 27 (1), and Convention respecting the Laws and Customs of War on Land, art. 46.

[78] See, e.g., International Covenant on Civil and Political Rights, arts. 7 and 17, International Covenant on Economic, Social and Cultural Rights, art. 11, and International Convention on the Elimination of All Forms of Racial Discrimination, art. 5.

[79] See *Legal Consequences of the Construction of a Wall*, para. 110, CCPR/CO/78/ISR, para. 11, and Committee on Civil and Political Rights general comment No. 31, para. 8.

[80] See A/71/355, para. 19, and A/HRC/25/38, paras. 42-43.

[81] Yesh Din, "Law enforcement on Israeli civilians in the West Bank", data sheet, October 2015 (referred to in A/71/355, para. 19).

[82] See A/71/355, para. 20, and A/HRC/31/43, paras. 40-43.

[83] See A/HRC/34/39 and A/71/355, para. 18.

[84] See A/HRC/28/44, para. 53, and A/HRC/22/63, paras. 41 and 46.

[85] Differences notably pertain to the authority to arrest, the maximum period of detention before being brought before a judge, the right to meet with an attorney, protections for defendants during trial, maximum punishment and release before sentence completion. Israeli military law also provides for additional offences that are not part of Israeli criminal legislation, such as stone-throwing or

40. The application of two different legal systems in the same territory, on the sole basis of nationality or origin, is inherently discriminatory.[86] It also violates the principle of equality before the law, which is central to the right to a fair trial.[87] The application of Israeli domestic law to settlers and of Israeli military law to Palestinians in the West Bank also raises concerns regarding the obligation of the occupying power to respect the laws in force in the territory it occupies, unless it is absolutely prevented from doing so.[88]

B. Obligations of all parties related to the conduct of hostilities

41. Since 2007, there have been three major escalations in Gaza, which have resulted in 3,808 Palestinian fatalities, including 928 children.[89] During the most recent escalation of hostilities, in July and August 2014, 1,460 civilians, including 556 children, were killed, and 82 hospitals and 295 schools were either destroyed or damaged. In total, 90 Israelis, including 11 civilians, were killed.[90]

42. More than two years after the 2014 escalation of hostilities, serious concerns persist concerning the lack of accountability by the Israeli and Palestinian authorities with regard to alleged violations of international humanitarian law, including alleged war crimes, and violations and abuses of international human rights law. No meaningful investigation has been announced by the Palestinian authorities so far.[91] A high number of cases involving the Israel Defense Forces will not be subject to criminal investigation as they were closed by the Office of the Israeli Military Advocate General for lack of reasonable grounds for suspicion of criminal behaviour, despite serious allegations.[92] When investigations are opened, concerns remain as to whether they meet human rights standards, especially in view of the small number and the low rank of alleged perpetrators that are eventually brought to justice, facing mainly lenient indictments and sentences.[93] As for civil remedies, victims have no prospect for compensation either.[94] This overall lack of accountability contributes to fuelling the conflict.

C. Further recurrent human rights violations in the Occupied Palestinian Territory

Impunity as a driver of violations

43. Despite various measures taken by Israel to address impunity,[95] the failure to ensure accountability creates an environment of impunity where victims and families have little or no redress, which may encourage further abuses on all sides.

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assaulting a soldier. See Association for Civil Rights in Israel, *One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank* (November 2014) and B'Tselem, "Dual system of law", 1 January 2011.

[86] International Covenant on Civil and Political Rights, art. 2.

[87] Ibid., art. 14.

[88] Convention respecting the Laws and Customs of War on Land, art. 43, and Fourth Geneva Convention, art. 64. The possible passage of a bill in the Knesset that would enable the retroactive legalization of outposts built on Palestinian-owned land is of additional concern, as it would be the first time that the Knesset enacts legislation to be specifically applied in the West Bank.

[89] Figures from the Office for the Coordination of Humanitarian Affairs.

[90] A Thai national was also killed.

[91] The report of the Palestinian Independent National Committee established to follow up on the recommendations addressed to the Palestinian Authority by the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 (see A/HRC/29/52) was reportedly handed over to the Palestinian President on 8 January 2017.

[92] Israel Defense Forces, "Decisions regarding exceptional incidents that occurred during Operation Protective Edge". See A/71/364, paras. 38-41.

[93] See A/71/364, para. 40.

[94] Ibid., paras. 56-57.

[95] See CAT/C/ISR/5 and A/71/364, paras. 61-63.

44. Ensuring accountability for violations committed by all parties would be key to breaking the cycle of violence.[96] Few Israeli security personnel are indicted for their actions. Incitement to violence remains an issue. Palestinians who commit attacks against Israelis are glorified by parts of the population and representatives of ruling parties.[97]

Excessive use of force by law enforcement officials

45. Since September 2015, there has been a new escalation of violence in the West Bank, with attacks committed by Palestinians against Israelis. In that context, there appears to have also been a sharp increase in incidents of excessive use of force, both in the context of clashes and in response to attacks or alleged attacks by Palestinians against Israelis.[98] In many instances, it appears that Israeli security forces do not make use of firearms against Palestinians only as a last resort, even where there is no imminent threat to life or of serious injury.[99] Similar concerns of unlawful killings arise in the context of the access-restricted areas in Gaza (where elements of the Israel Defense Forces routinely use firearms against bystanders and protestors), along the Israel-Gaza fence and at sea against small fishing vessels.[100]

46. Such use of firearms and the large number of resulting casualties raise serious questions as to whether the rules of engagement of the Israel Defense Forces comply with international law, whether they are properly implemented and respected and whether appropriate sanctions are imposed for non-compliance.

47. In law enforcement operations, the use of lethal force has to be limited to situations when it is strictly necessary and in accordance with the principle of proportionality. It should be restricted to situations of last resort, i.e. as a response to an imminent threat of death or serious injury.[101] Use of force that does not comply with those principles and results in the death of the suspect amounts to an arbitrary deprivation of life.[102] Under international humanitarian law, this may constitute an act of wilful killing.[103]

48. The Secretary-General has expressed serious concern regarding the excessive use of force and unlawful killings by the Israeli security forces, including apparent extrajudicial executions.[104] Concerns remain regarding accountability in law enforcement operations.[105] Since the escalation of violence in September 2015, only one case has led to an indictment and subsequent conviction, despite the fact that, as at 31 October 2016, 169 Palestinians were killed by Israeli security forces following an attack or alleged attack.[106]

Torture and ill-treatment in detention

49. Allegations of ill-treatment and torture of Palestinian detainees have been regularly reported over the years.[107] These occur largely during arrests, transfers and interrogations, particularly by the Israel Security Agency. Common forms of ill-treatment include sleep deprivation, placement in stress positions, sexual harassment and physical assault. In 2015, The Public Committee against Torture in Israel documented 38 complaints of torture in Israeli detention facilities.[108] The United Nations Children's Fund (UNICEF) and partner

[96] See A/71/364, para. 71.
[97] Report of the Middle East Quartet, p. 3.
[98] See A/HRC/31/40.
[99] See A/71/364, paras. 8-10, and A/71/355, paras. 38-43.
[100] See A/70/421, paras. 30-38, and A/71/364, paras. 13-15.
[101] Code of Conduct for Law Enforcement Officials, arts. 2-3, and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principles 5, 9 and 13-14.
[102] International Covenant on Civil and Political Rights, art. 6.
[103] Fourth Geneva Convention, art. 147.
[104] See A/71/355, para. 43, A/71/364, paras. 8-9, and A/HRC/31/40, paras. 10-15.
[105] See A/71/364, paras. 42-50.
[106] See A/71/355, para. 45, and A/71/364, para. 45. Elor Azaria was convicted for manslaughter on 4 January 2017; as at the time of writing, it was not clear whether there will be an appeal to the judgment.
[107] A/HRC/28/80, A/HRC/31/40 and A/71/364.
[108] Update provided by the Public Committee against Torture in Israel.

organizations also documented 58 cases of West Bank children reporting ill-treatment by Israeli security forces in 2015.[109]

50. International human rights law prohibits torture or cruel, inhuman or degrading treatment or punishment.[110] That prohibition is absolute and there cannot be any derogation from it, not even in a situation of armed conflict.[111] The occupied population is also specifically protected by international humanitarian law.[112]

51. Israeli law does not specifically prohibit, define or criminalize torture.[113] Despite improvements, for instance with the creation of semi-independent accountability mechanisms, the "necessity defence" is commonly invoked to prevent any criminal investigations.[114] The number of complaints of torture or ill-treatment involving the Israel Security Agency has quadrupled since June 2013, but not a single complaint has led to a criminal investigation.[115] Israel views the presentation of such complaints as a method to burden and hinder its security agencies in their ongoing fight against terrorism.[116]

52. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has consistently received and documented reliable allegations of torture and ill-treatment of Palestinian detainees in the West Bank and in Gaza, including cases that have led to death.[117] In the West Bank, political opponents and activists, including students perceived to be linked to Hamas and the Palestinian Islamic Jihad, appear to be particularly targeted by the Palestinian Authority.[118] In Gaza, the ruling authorities and armed groups have reportedly resorted to such practices.[119] Credible investigations into allegations are rare.

Administrative and arbitrary detention

53. Since 2014, the number of Palestinians in detention has significantly increased; detainees have no prospect of charge or trial. As at 31 October 2016, it was reported that 720 Palestinians were being held in Israeli administrative detention,[120] after their number had peaked at 750 earlier in 2016, the highest number since early 2008.[121] Some administrative detainees have resorted to hunger strikes to protest their detention.[122] In July 2015, the Israeli prisons act was amended, allowing judges to authorize the forced feeding of a detainee on hunger strike.[123] Forced feeding has been qualified by human rights experts as being tantamount to cruel, inhuman or degrading treatment, and a violation of the right to health.[124]

54. OHCHR has also documented a growing use of administrative detention by Palestinian security forces, in some cases on the basis of orders issued by provincial governors, or simply to justify delays in bringing the accused before a judge.[125] In Gaza, the authorities have resorted to arbitrary detention against perceived political opponents,

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[109] See A/HRC/31/40, para. 47.
[110] International Covenant on Civil and Political Rights, art. 7.
[111] Ibid., art. 4.
[112] Fourth Geneva Convention, arts. 27 and 32.
[113] See CAT/C/ISR/CO/5, paras. 12-13, and A/71/364, paras. 41 and 59.
[114] See A/71/364, para. 59 (with references).
[115] Ibid., para 60.
[116] See CAT/C/ISR/5, para. 11.
[117] See A/HRC/31/40, paras. 60-62, and A/HRC/34/36.
[118] See A/HRC/31/40, para. 61, and A/HRC/34/36.
[119] A/HRC/34/36.
[120] See www.addameer.org/statistics. Three Jewish-Israeli men were also held in administrative detention in 2015.
[121] See www.addameer.org/statistics/20160730 and www.btselem.org/administrative_detention/statistics.
[122] See A/HRC/31/40, para. 44, and A/HRC/34/36, paras. 21-22.
[123] See A/HRC/31/40, para. 45.
[124] Joint statement of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, available from www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269&LangID=E.
[125] See A/HRC/31/40, para. 58.

including members of Fatah and former personnel of the Palestinian Authority, with cases of incommunicado detention reported, including by armed groups.[126]

55. Human rights law guarantees to everyone the right to liberty and security. This implies that no one shall be subject to arbitrary arrest or detention, and that any deprivation of liberty should occur on the basis of legal grounds and follow strict procedures as established by law.[127] Detainees should be promptly charged or released. Administrative detention is only permitted in exceptional circumstances and should never be used as an alternative to criminal proceedings.[128] Stringent safeguards should be applied to prevent arbitrary detention, including basic procedural guarantees, such as the rights to be informed promptly and fully of the reasons for the detention, to take proceedings before a court, to challenge the legal basis of the detention and to be presumed innocent. Breaches should give rise to compensation.[129]

56. The way that Israel makes use of administrative detention often leads to indefinite detention without charge. Hearings for administrative detainees are often conducted in closed session, with detainees regularly held on the basis of secret evidence to which neither they nor their lawyers are given access. That practice has been widely condemned, including by the Secretary-General, the United Nations High Commissioner for Human Rights and the Human Rights Committee, all of whom have called for its end.[130] In addition, such practice is inconsistent with the exceptional nature of detention provided by international humanitarian law.[131] Most administrative detainees are held in Israel, in violation of the prohibition of forcible transfer.[132]

Arrest and detention of children

57. Each year hundreds of Palestinian children, some as young as 12 years of age, are arrested and prosecuted in the Israeli military court system. Charges usually involve stone-throwing and, more recently, incitement to violence based on social media posts.

58. The number of children in detention has more than doubled in the past year.[133] The peak figure of 440 children held in Israeli detention at the end of February 2016 was the highest number of detained children since January 2008.[134] Administrative detention of children resumed in October 2015, a practice not seen since December 2011.[135] There are concerns as to whether child detention is being used as a measure of last resort and for the shortest appropriate period, as required by human rights law.[136]

59. The fact that Israeli military law applicable in the West Bank permits the detention of Palestinian children from the age of 12 years is at odds with the specific protection granted to children as members of a particularly vulnerable group and the general rule that any decision affecting them must have their best interest as a primary consideration.[137]

60. A number of legal developments also appear to target children in East Jerusalem in contravention of international standards.[138] In August 2016, the Knesset approved amendments to the Israeli youth law that make it possible for prison sentences to be issued for children aged between 12 and 14 years for specific, serious crimes.[139]

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[126] A/HRC/34/36.
[127] International Covenant on Civil and Political Rights, art. 9, and Human Rights Committee general comment No. 35 (2014) on liberty and security of person, para. 15.
[128] Ibid.
[129] International Covenant on Civil and Political Rights, art. 9.
[130] See A/HRC/28/80, para. 33.
[131] Fourth Geneva Convention, art. 78.
[132] Fourth Geneva Convention, arts. 49 and 147. See A/HRC/31/40, para. 43.
[133] See A/HRC/34/36, para. 24.
[134] See A/71/364, para. 36.
[135] See A/HRC/31/40, para. 41, and A/71/364, para. 34.
[136] Convention on the Rights of the Child, art. 37 (b).
[137] Ibid., art. 3 (1).
[138] See A/HRC/31/40, paras. 49-51.
[139] See A/HRC/34/36, para. 29.

Death penalty

61. Under Palestinian law, the death penalty is permitted for a large number of offences and is mandatory for a smaller number of offences. The President is required to confirm the death sentence. Although there is no formal moratorium on executions, in the West Bank none have been carried out since an announcement by the Palestinian President in 2005 that he would not confirm any death sentences.[140] Both in the West Bank and in Gaza, however, courts continue to issue death sentences. In Gaza, executions resumed in 2010, and 22 of the 101 death sentences pronounced since 2008 have reportedly been carried out, despite not having been approved by the Palestinian President.

Freedom of movement and economic, social and cultural rights

62. Palestinians' freedom of movement within the Occupied Palestinian Territory is significantly restricted by a complex and multilayered system of administrative, bureaucratic and physical constraints, including permit requirements, checkpoints and physical obstacles affecting almost every aspect of daily life.[141]

63. Movement restrictions are particularly prevalent in the vicinity of settlements. East Jerusalem is isolated from the rest of the West Bank through the use of permit requirements, as are areas of the "seam zone", i.e. areas west of the wall in the West Bank. The wall[142] remains a key obstacle to freedom of movement. In Gaza, the continuing closures and the related permit regime impose strict limits on Gaza residents wishing to exit Gaza and, to a lesser extent, on West Bank residents wishing to enter Gaza.[143]

64. Freedom of movement is guaranteed under international human rights law.[144] As previously highlighted, restrictions on freedom of movement may also amount to collective punishment, in violation of international humanitarian law.[145] While that right may nevertheless be restricted to address legitimate security needs, any limitation has to be necessary and proportional to the end sought and must be applied consistently with protections afforded by human rights.[146]

65. Freedom of movement is a precondition for the exercise of several other human rights, including economic, social and cultural rights. Access restrictions have a negative impact on the rights to education, health, work and family life throughout the Occupied Palestinian Territory.[147]

66. Limitations on movement and other restrictions also prevent the development of the Palestinian economy. The agricultural sector has been particularly affected, as farmers have been denied access to agricultural areas, water resources and domestic and external markets.[148] Impediments to Palestinians' economic, social and cultural development also affect the exercise of the right to self-determination.[149]

67. The closures in Gaza, together with successive military campaigns by the Israel Defense Forces and the use of force in access-restricted areas, has exacerbated the humanitarian crisis in Gaza, severely undermining any effort at development and resulting

[140] Ibid., para. 57.
[141] See A/HRC/31/44, paras. 12-43.
[142] In 2002, Israel started to build a wall between Israel and the West Bank in order to prevent attacks from Palestinians within Israel. Some 85 per cent of the wall nevertheless runs into the West Bank. Once fully completed, the wall would isolate 9.4 per cent of the West Bank, including East Jerusalem.
[143] See A/HRC/31/44, paras. 12-20.
[144] International Covenant on Civil and Political Rights, art. 12 (1).
[145] Convention respecting the Laws and Customs of War on Land, art. 50, and Fourth Geneva Convention, art. 33.
[146] International Covenant on Civil and Political Rights, art. 12 (3), and Committee on Civil and Political Rights general comment No. 27 (1999) on freedom of movement, para. 14.
[147] International Covenant on Economic, Social and Cultural Rights, arts. 6 and 11-13. See A/HRC/31/44, paras. 44-73.
[148] See A/HRC/22/63, para. 89.
[149] International Covenant on Civil and Political Rights, art. 1, and International Covenant on Economic, Social and Cultural Rights, art. 1. See A/HRC/31/44, para. 11.

in recurrent violations of human rights. The closures have had a negative impact on basic human rights and economic prospects, as well as on the availability of essential services, exacerbating poverty and aid dependency.[150] Access to health, education and broader economic and social rights have been restricted. The situation has caused growing frustration and despair, with an ongoing breakdown in societal ties accompanied by an increase in diseases, crime rates, family disputes, domestic violence and cases of self-harm. The living conditions of people displaced by the conflict have also resulted in an increased risk of violence against women and children.[151]

68. According to the Office for the Coordination of Humanitarian Affairs, 1.3 million people in Gaza were in need of humanitarian assistance as of November 2016.[152] However, efforts by humanitarian actors to address the most pressing needs following the 2014 escalation of hostilities, such as housing, health, education, and water and sanitation services, have been hampered by restrictions on the import of goods considered by Israel as "dual-use" items. Those are civilian goods, such as construction materials or medical equipment, that Israel considers to also be of military use.[153] These restrictions constitute a violation of the obligation of Israel as an occupying power to allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need.[154]

Freedom of expression and peaceful assembly

69. Significant concerns remain regarding violations and abuses by all duty bearers of the rights to freedom of expression, peaceful assembly and association. Israeli and Palestinian authorities impose restrictions and subject both Israeli and Palestinian human rights defenders focusing on the Occupied Palestinian Territory to pressure and harassment.[155] Palestinian activists are regularly arrested, assaulted and harassed by Israeli security forces, in addition to facing physical attacks and harassment from settlers, particularly in Hebron.[156] Israeli human rights organizations advocating for Palestinians' human rights have come under attack from Israeli politicians, whose statements may amount to incitement to violence.[157] Of additional concern is the recent growing intimidation of non-governmental organizations that have been calling for the use of foreign jurisdictions and international justice mechanisms to ensure accountability for Israeli violations.[158]

70. In the Occupied Palestinian Territory, political tensions often lead to human rights abuses, with restrictions on freedom of expression and peaceful assembly, in addition to the targeting of political opponents through harassment, threats, arbitrary arrests, assaults, ill-treatment and torture. OHCHR regularly receives reports of human rights violations perpetrated by the Palestinian security forces and the authorities in Gaza, particularly against individuals and groups critical of the authorities.[159]

71. Throughout the Occupied Palestinian Territory, social media is monitored, and journalists and activists are harassed, arrested, detained and, in some cases, subjected to ill-treatment or torture.[160] Authorities in both the West Bank and Gaza have also imposed restrictions on peaceful assemblies. Such practices contribute to the creation of a repressive environment and promote self-censorship among the Palestinian population.

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[150] See A/71/364, para. 5.

[151] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and Office for the Coordination of Humanitarian Affairs, "Needs of women and girls in humanitarian action in Gaza: gender alert for the 2016 response plan", August 2015, p. 2.

[152] Office for the Coordination of Humanitarian Affairs, "The Gaza Strip: the humanitarian impact of the blockade", 14 November 2016.

[153] See http://gisha.org/publication/4860.

[154] Fourth Geneva Convention, art. 59, and ICRC, *Customary International Humanitarian Law*, rule 55.

[155] See A/HRC/34/36, paras. 39-42.

[156] See A/HRC/31/40, para. 52, and A/HRC/34/36, para. 39.

[157] See A/HRC/34/36, para. 42.

[158] See www.alhaq.org/advocacy/topics/human-rights-defenders/1026-al-haq-under-attack-staff-members-life-threatened and www.mezan.org/en/post/21475.

[159] See A/HRC/31/40, paras. 66-67, and A/HRC/34/36, paras. 51-53.

[160] See A/HRC/31/40, paras. 56-57, and A/HRC/34/36, para. 49.

72. International human rights law guarantees freedom of expression, association and peaceful assembly.[161] Although restrictions on the exercise of those rights are permitted, they must be provided by law and have to be necessary for the protection of the rights and freedoms of others and for the protection of national security and order.

IV. Conclusion

73. Chronic violations of international human rights law and international humanitarian law by all parties persisted during the reporting period. Violations by Israel of the fundamental provisions of the law of occupation continued, particularly with the closures in Gaza and the consolidation and expansion of settlements, suggesting clear patterns and policies. The transfer of parts of the Israeli and the Palestinian populations, and the lack of respect for public and private property, have profoundly altered the status quo in the Occupied Palestinian Territory.

74. The absence of law enforcement and accountability against Israeli perpetrators further contravenes the obligation of Israel as an occupying power to ensure public order and safety and to protect the Palestinian population in all circumstances. Moreover, the application of Israeli national law to Israelis in the West Bank raises concerns under international law.

75. In 2013, experts denounced the "creeping annexation" of the West Bank, preventing the establishment of a contiguous and viable Palestinian State and undermining the right of the Palestinian people to self-determination.[162] The devastating impact of the Israeli occupation on the rights of the Palestinian population can only be reasserted.

76. International law violations by the Palestinian Authority, the authorities in Gaza and Palestinian armed groups are also of concern. The obligation of the Palestinian authorities to uphold human rights in the entirety of the Occupied Palestinian Territory has to be emphasized as an essential element of the governing role of the State of Palestine.

V. Recommendations

77. All violations and abuses of the human rights of the Palestinian people must immediately cease and be promptly, impartially and independently investigated and those responsible must be held accountable. All parties must respect international law and comply with their obligations and responsibilities under international human rights law.

78. All parties, including Palestinian armed groups, shall respect the applicable rules of international humanitarian law, including the principles of distinction, proportionality and precaution, and ensure accountability for all violations.

79. All previous recommendations of the United Nations human rights treaty bodies and other mechanisms of the Secretary-General and of the United Nations High Commissioner for Human Rights that remain valid, as well as the recommendations of commissions of inquiry and fact-finding missions, must be fully and promptly implemented.

80. All States parties to the Geneva Conventions should take measures to ensure the respect of the Conventions by all sides.

81. Israel must end and reverse all settlement activity in the West Bank, including East Jerusalem, and lift the situation of blockade in Gaza.

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[161] International Covenant on Civil and Political Rights, arts. 19 and 21-22.

[162] See A/HRC/22/63, para. 101.

82. In ensuring its legitimate security needs, Israel must respect international humanitarian law and international human rights law.

83. The Palestinian authorities should take steps to encourage national political parties to resolve the political disunity that obstructs the equal implementation of the human rights obligations of the Government of the State of Palestine throughout the Occupied Palestinian Territory.